

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3508-07
Bill No.: Perfected HS for HCS for HBs 1654 & 1156
Subject: Elderly; Medicaid; Nursing and Boarding Homes; Health Dept.
Type: Original
Date: April 15, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue**	(Unknown exceeding \$3,757,381)	(Unknown exceeding \$6,994,366)	(Unknown exceeding \$8,395,041)
Intergovernmental Transfer *	(Unknown up to \$4,286,915)	(Unknown up to \$4,331,302)	(Unknown up to \$4,341,285)
Total Estimated Net Effect on <u>All</u> State Funds**	(Unknown exceeding \$3,757,381)	(Unknown exceeding \$6,994,366)	(Unknown exceeding \$8,395,041)

* Subject to Appropriations

** Revenues and Savings exceed \$100,000 annually and netted against costs.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Unemployment Compensation Admin.	(\$10,828)	\$0	\$0
Unemployment Compensation Trust	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds+	(Unknown exceeding \$10,828)	(Unknown)	(Unknown)

+ Revenues and Expenditures exceeding \$14.7 million annually and net to \$0. Excludes Unemployment Compensation related costs.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	(Unknown exceeding \$100,000)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 32 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri House of Representatives, Department of Elementary and Secondary Education, Department of Public Safety - Missouri Highway Patrol, Coordinating Board for Higher Education and Office of State Courts Administrator** assume the proposed legislation will have no fiscal impact to their organizations.

Officials from the **Department of Insurance (INS)** stated there is a single PACE HMO in Missouri that serves less than 150 people and is not in the commercial market. There will be no fiscal impact to the INS.

Officials from the **Missouri Health Facilities Review Committee (MHFRC)** stated there are 35 existing continuing care retirement communities (CCRCs). We have made the assumption that 20 more facilities would submit CON applications for additional long term care beds in order to become CCRCs. If the minimum \$1,000 application fee were applied to each application, this would result in an additional \$20,000 revenue.

Submission of an application would be required for those facilities who had relinquished beds and, after reaching certain occupancy requirements, wished to regain those beds. We have assumed that at least 10 additional applications would be submitted. If the minimum \$1,000 application fee were applied to each application, this would result in an additional \$10,000 revenue.

The MHFRC also assumes the proposed legislation will result in unknown income to General Revenue due to the proposed \$1,000 surcharge per bed to be imposed on nursing facilities with licensed but unavailable beds. However, the MHFRC does not believe the income would be significant. MHFRC officials assume most nursing facilities would be unwilling to pay the annual surcharge to retain licensed beds that were not available for use

Oversight obtained information relating to the number of licensed but unavailable beds in nursing facilities in Missouri for calendar years 2000 and 2001 (8 quarters). The average for this period was 2,823 licensed but unavailable beds potentially subject to the annual surcharge of \$1,000. Based on discussions with MHFRC staff, nursing facilities could relinquish the license for unavailable beds for reporting purposes to avoid the surcharge and then re-license those beds within one year for a \$25 application fee without being subject to certificate of need regulations. At the present time, there are 569 nursing facilities with licensed Medicaid beds in the state of Missouri.

Therefore, **Oversight** is ranging potential income to the General Revenue Fund from \$14,225 (569 facilities x \$25 re-licensure application fee) to \$2,823,000 (average 2,823 beds for calendar years 2000 and 2001 x \$1,000 per bed) because of the uncertainty that facilities would retain unavailable beds and pay the annual surcharge.

ASSUMPTION (continued)

Officials from the **Office of Administration (COA) - Division of Budget and Planning** assume the proposed legislation should not result in additional costs or savings to the COA. The proposed legislation would increase total state revenue.

Officials from the **Office of the Secretary of State (SOS)** state this bill enacts and modifies various provisions regarding protection of the elderly. The Department of Health and Senior Services and the Division of Medical Services will promulgate rules to implement this bill. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Health and Senior Services and Division of Medical Services could require as many as 102 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$6,273 [(102 pp x \$27) + (153 pp x \$23)].

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Labor and Industrial Relations (DOL)** stated the proposal provides contributing employers, who are currently charged for benefit payment because an individual was not discharged for misconduct connected with the work, will not be charged for benefit payment if the employer was required by law to discharge the individual, because the individual was placed on a disqualification list after being hired.

Unemployment benefits are paid from the Unemployment Compensation Trust Fund (UCTF). The UTCF is funded by all contributing employers and by employer payments for benefit charges. Although the proposal would not change the amount of benefits paid, it no longer provides the charging mechanism for replenishing the fund. The cost of benefits would reduce the balance of the UTCF, which would contribute to future rate increases to all contributing employers if the balance reaches certain levels.

The Division of Employment Security (DES) is not able to identify current claims that meet the proposed conditions to estimate and project the amount of impact to the UTCF. The negative impact would also depend on the weekly benefit amounts payable, the number of weeks claims and other unknown factors.

ASSUMPTION (continued)

Information Systems estimates the change to the benefit charging provisions would require 220

hours of computer programming to the nonmonetary and charging process in the existing system at \$49.22 per

hour. This would be an estimated one-time start-up cost of \$10,828, which would have a negative impact on Federal Funding. The Department's DES assumes the cost for changing and printing notices and pamphlets would be part of the normal cost of operations.

Allowing the Department of Social Services to provide investigative information relating to the circumstances of an individual's separation could better equip the DES when investigating misconduct connected with the work when subject employers are not in a position to provide the information at the time of the DES's investigation. The DES is not able to predict the impact this may have.

Officials from the **Office of Prosecution Services (OPS)** assume the proposed legislation would result in "costs exceeding \$100,000" based on previous statements provided by the **Cole County Prosecuting Attorney's Office (CCPAO)** to similar legislation.

In response to similar pieces of legislation, the CCPAO stated that a complete re-write of the existing laws in this subject area would be necessary. The proposal affects the stealing, assault, and abuse statutes. This will require the local prosecuting attorney offices to re-write forms and instructions

related to elder abuse. This will also require an update to the computer network being installed in the prosecutors offices statewide. Although the CCPAO could not give a precise estimate of these costs, the costs are expected to exceed \$100,000 in the first year alone.

Officials from the **Department of Corrections (DOC)** stated that they cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY 01 average of \$35.78 per inmate per day, or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY 01 average of \$3.34 per offender per day, or an annual cost of \$1,219 per offender). Supervision by the DOC through probation or incarceration would result in additional unknown costs to the DOC. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Department of Health and Senior Services (DOH)** provided the following assumptions related to the proposed legislation:

ASSUMPTION (continued)

HW-C:LR:OD (12/01)

Health Standards and Licensure:

Section 187.024.2 In SFY01, the DOH received 500 reports involving imminent harm. Department personnel were able to commence on-site investigations on 85% or 437 of the reported incidents within 24 hours. However due to an insufficient number of staff, the DOH was unable to commence on-site investigations on 13% or 63 reported incidents within 24 hours.

To ensure the DOH is able to comply with the requirement to commence on-site investigations on all reported incidents of imminent harm within 24 hours, the DOH will need **two (2) additional Facility Adv Nurse** positions to conduct all phases of the on-site complaint investigation within the required time frame.

Section 187.040 The Employee Disqualification List (EDL) is a list of persons who have been finally determined to have recklessly, knowingly, or purposely abused, neglected or financially exploited an elderly or disabled person. Currently the EDL contain the names of 719 persons.

This new legislation will expand the EDL to also include the names of any person employed by providers licensed by chapter 190 and chapter 197 or sections 660.400 to 660.420. This would include such persons as emergency medical technicians, paramedics, ambulance drivers and employees of hospitals, home health, hospice agencies, and employees of adult day care programs. The additional names could potentially include any of the currently licensed emergency medical technicians and paramedics (12,957) or any employee of 139 licensed hospitals, 189 licensed home health agencies and 70 licensed hospice agencies.

Before a person's name can be added to the EDL, they are entitled to due process that may include a hearing conducted by the department. To ensure the DOH is able to conduct hearings in a timely manner, we believe an **additional hearings officer** as well as **clerical support** is needed.

Section 197.370.2 We believe that exempting continuing care retirement communities from the certificate of need program may substantially increase the number of these facilities statewide. Since this section does not exempt continuing care retirement communities from the licensure requirements in chapter 198, the DOH assumes any fiscal impact will be related to an increase in the number of these facilities providing residential, intermediate or skilled nursing care that must be licensed and inspected. Therefore, depending on the number of continuing care retirement communities that may be established that provide residential, intermediate or skilled nursing care, the DOH may need to request additional FTE in the future.

ASSUMPTION (continued)

Section 197.370.3 This section requires long-term care facilities that fail to achieve a specified occupancy level to relinquish beds. The DOH assumes that any fiscal impact will be related to a reduction in a facility's licensed capacity which could affect licensure fees and inspection

activities. However, we believe that since any relinquished beds will most likely be reallocated to a different facility, any fiscal impact will be negligible.

Section 660.051 The DOH assumes the proposed legislation requires all statements of deficiencies, identical to those posted in the facility, to be available on the DOH Internet web site for certified and state licensed skilled nursing facilities, intermediate care facilities, and residential care facilities Is and IIs (1,250+ facilities). The legislation also requires the DOH web site to provide a link to the federal web site that provides a summary of facility surveys conducted over the last three years and information on how to obtain copies of completed facility surveys. Additionally, the web site shall include a notation on any survey which is in dispute.

The DOH will need **one (1) additional Computer Information Technologist II** position to ensure information provided on the web site is current; provide technical support and maintenance of the portion of the DOH web site related to the 1,250+ providers and their related statements of deficiencies; and be responsible for systems management, configuration, administration and troubleshooting activities including support of state level communication protocols and database functions.

Section 198.019 The DOH assumes current staff in our Compliance Unit will be sufficient to document and forward to the appropriate units within the department a listing of those facilities whose compliance history should be considered when issuing or renewing a license. We believe the fiscal impact of this requirement would not be significant. However, dependent on the criteria that are established for not licensing a facility, a future request for FTE for the Compliance Unit may be needed.

Section 198.074 Although the DOH inspection process will need to be expanded to ensure facility compliance with requirement to provide immunizations to residents, we believe the effect on workload will be minimal and can be handled by existing staff.

Section 198.665 requires the DOH to establish the Missouri Career Ladder Initiative (MCLI) to provide education, training and mentoring opportunities for certified nurse assistants that are employed in long-term care facilities.

The MCLI program will make available to 50 long-term care facilities, through a competitive process, grants to participate in the program. Each participating facility will receive \$10,000 to administer a ASSUMPTION (continued)

program consisting of three levels of training. Each training level will consist of 8 weeks of training with a minimum of 4 hours training per week.

The MCLI program will pay trainees for successfully completing a particular level of training. Upon completing Level 1, trainees will receive \$75. Upon completing Level 2, trainees will

receive \$150. And finally, upon completing Level 3, trainees will receive \$250. Also, any certified nurse assistant that completes the program may continue to earn up to an additional \$1,000 a year for continuing education.

Assuming a long-term care facility has an average of 120 beds and employs approximately 44 certified nurse assistants, we estimate that approximately 2,200 certified nurse assistants would be eligible to participate in the MCLI program (50 facilities x 44 certified nurse assistants = 2,200).

Based on the above, it is estimated that the following payments will be made to trainees for three levels of training and continuing education and to facilities for administering the program:

Trainee payments:

Level 1 training	\$ 75 x 2,200 trainees = \$ 165,000
Level 2 training	\$ 150 x 2,200 trainees = \$ 330,000
Level 3 training	\$ 250 x 2,200 trainees = \$ 550,000
Continuing education	\$ 1,000 x 2,200 trainees = \$ 2,200,000

Facility administration payments:

50 facilities x \$10,000 = \$ 500,000

Training materials:

4 levels x 2,200 trainees x \$23 materials = \$ 202,400

Total trainee/facility payments and materials \$ 3,947,400

Oversight assumes that not all certified nurse assistants would participate in the continuing education program. However, since it is impossible to predict the number of participants, Oversight assumes the cost of this program to be Unknown up to \$3,947,400.

The DOH will be responsible for establishing and overseeing the Missouri Career Ladder Initiative, which will include developing and distributing training materials and providing technical assistance to the 50 participating long-term care facilities. We believe we will need **three (3) additional facility adv nurse II** positions to coordinate and administer this program, develop uniform training materials, ASSUMPTION (continued)

provide technical assistance and evaluate the facility programs. Also, **one (1) clerk typist II** will be needed to provide support to the new positions.

In addition to establishing the Missouri Career Ladder Initiative, the DOH will be responsible for developing a continuing education and mentoring program for caregivers to provide leadership, education and training to newly hired caregivers within the facility. We believe this will take **two (2) additional facility adv nurse II** positions to develop and coordinate the program. Also, **one (1) clerk typist II** will be needed to provide support to the new positions.

This section further states that the Missouri Career Ladder Initiative will not take effect unless funding becomes available from the intergovernmental transfer fund or the General Assembly appropriates funds in advance to cover the program.

Oversight assumes that one clerk typist II will be able to provide support for the five facility advisor nurse II positions.

Senior Services:

187.010 Definitions

Contains definitions to be used in Chapter 187.

(5) The definition of an eligible adult has been expanded to include all seniors over age sixty and all adults with a disability. The removal of the language that limits investigative authority and responsibility of the department to vulnerable adults who are in need of protection has substantially altered the responsibility of the department.

The fiscal impact of this revised definition is indeterminate.

187.015 Rule authority - No fiscal impact

187.020 - Mandated reporting of abuse/neglect

Changes the professionals named as mandated reporters and requires that reports be made within 24 hours with misdemeanor penalty provision; penalty provision for false reports and offers protection for reporting. Requires facility to report deaths to coroner and agency to track information. No fiscal impact.

187.028 Abuse/Neglect of Eligible Adult Not Residing in a Facility 3. This expands the authority of the state to remove an individual from his/her own home. Currently, there is no system to support out-of-home placement for seniors and adults with disabilities; abuse centers are not generally equipped to accept this population.

ASSUMPTION (continued)

The cost of alternative placement is an issue because not all individuals who are victims of abuse/neglect are eligible for or in need of nursing facility placement or hospitalization. Because there is no mention as to where the adult should be placed nor the financial responsibility for an alternative placement, the department assumes that the expense will be borne by the individual or as ordered by the court of jurisdiction. It is the assumption of the department that the cost of alternative placement would not be borne by the department, and therefore anticipates no fiscal impact.

If, however, if the sponsor intends for the department to absorb the cost associated with out-of-home placement, the fiscal impact is indeterminate.

187.030 Elder Abuse and Law Enforcement

1. The department assumes that current policy requirements for involvement of law enforcement to co-investigate cases in which there is an allegation that a crime has been committed meets the legislative intent of this statute and therefore assumes no fiscal impact.
2. Requires the division and law enforcement agencies to require training and cross-training of personnel regarding the proper handling of cases involving elder abuse and cooperatively develop a checklist for use by division and law enforcement personnel to follow when investigating possible elder abuse.

The department assumes the intent of the sponsor is that Division of Senior Services staff and law enforcement officials statewide will require training on the proper handling of cases involving elder abuse. There will be a window of time in which the state will have to bring 800+ Division of Senior Services (formerly Division of Aging, Home and Community Services) and Division of Health Standards Licensure staff (formerly Division of Aging, Institutional Services) and approximately 29,000 law enforcement officials (representing over 1,200 law enforcement agencies) into compliance with the training requirements of the legislation.

The law enforcement agencies will absorb the cost of training law enforcement officials. Once existing law enforcement officers receive the training, the curriculum will be incorporated into the required training for state certification in Missouri. There are 18 law enforcement training academies located throughout the state which offer the required 470 hours of training for all law enforcement officials to become certified.

The DOH will need **one Public Health Manager B1** position to oversee the administrative responsibilities outlined in the bill. The administrator will work with the Highway Patrol, Sheriff's Association, Law Enforcement Training Academies, and other such agencies and associations to fulfill the requirements of joint training, developing accurate curriculum including the mandated checklist to ASSUMPTION (continued)

ensure thorough investigations of elder abuse cases and under 660.252 a proficiency exam for use with in-home provider agencies for new applicants. Once the proficiency exam and the law enforcement curriculum has been developed, the administrator will act as the division liaison for law enforcement the over 1,200 law enforcement agencies to ensure that elder abuse training is accurate and revisions are made as necessary in accordance with state laws.

The DOH will conduct training for 800+ employees within the divisions in six to eight sessions across the state (depending on attendance by law enforcement personnel). The DOH estimates that 16 hours of training across three days will be sufficient, requiring two overnights for approximately 40% of the staff. All staff will require meal allowances and some travel reimbursement. Anticipating maximum carpool and state cars usage, mileage is based on an

average of 75 miles per car per round trip. The DOH estimates the cost of training as follows (no cost for "trainers" included):

Total DA Staff/Personnel to be trained	800
Approximate number requiring two overnight accommodations (40%)	320
Hotel Accommodations: \$65.00 per overnight two nights (320 x \$65 x 2)	\$41,600
Meal Allowance: \$23.00 per day; two days (800 x \$23 x 2) + (800 x \$19 x 1/2 day)	\$52,000
Approximate Mileage: (1 car per 3 employees = 800/3 = 267 cars)	
75 average miles round-trip per car (267 x 75 x \$0.315)	\$6,308
Total Estimated Cost of Training DA Staff	<u>\$99,908</u>

Oversight assumes that training would be held at various sites around the state. Oversight assumes total costs of \$51,327.

Section 660.071 is modified to require the department to create and make available through the department's internet web site a listing of all public or private companies or organizations providing services to older adults and further requires the information be available in a format that is easily printed and downloaded. The information must also be accessible to the area agencies on aging.

The DOH currently posts the Missouri Senior Guide, Needs Assessment, links to AAA's, and other programmatic information on its website. The DOH assumes that the posting of this information on its current website along with referrals to Community Connections (an internet website that lists information regarding provider agencies) would meet the mandates of this legislation. Therefore, the DOH believes costs associated with this section could be absorbed and would result in no additional fiscal impact.

Section 660.302 mandates the department of health and senior services to investigate incidents and reports of elder abuse by using the procedures outlines in 660.250 to 660.295 and to promptly refer ASSUMPTION (continued)

all "suspected" cases of elder abuse to the appropriate law enforcement agency and prosecutor and to make determination whether protective services are required.

660.302 Referral of Suspected Cases of Elder Abuse - requires the department to promptly refer all suspected cases of elder abuse to appropriate law enforcement agencies and determine the need for adult protective services. The department assumes the prosecutors' office and law enforcement agencies will determine the fiscal impact associated with additional referrals resulting from the language requiring the division to refer all cases of "suspected" elder abuse.

There were 12,733 investigations completed in FY01; 56.4% (7,181 cases) have investigative findings of reason to believe and 18.6% (2,368 cases) have findings in which the allegations were

suspected to have occurred.

Although the previous law requires that all “substantiated cases” be referred to law enforcement or the prosecutors, current policy (Policy 1703.30) requires joint-investigation with law enforcement any time report allegations indicate or an investigation reveals information that: “Emergency entry of the premises is needed; Emergency removal of the eligible adult from the premises is needed; Caregiver or other party will (allegedly) refuse to allow the investigation to be conducted; The life of the eligible adult may be in danger upon (subsequent) investigation by Department of Health and Senior Services.”

The eligible adult faces the likelihood of serious physical harm if not placed in a medical treatment facility; Abuse or Neglect meeting the statutory definition of the Crime of Elder Abuse has occurred (Policy 1702.40); Report indicates physical evidence needs to be professionally gathered or preserved and information indicates the eligible adult is being held against his/her will.

Other circumstances which suggest that the worker may need to involve law enforcement prior to a face-to-face visit with the reported adult include: to obtain background information about subjects in the report (e.g. past law enforcement involvement, potential threat to the worker, reported adult, etc.); the report indicates an unrelated serious crime may have been committed; there is reason to believe the alleged perpetrator will flee if you are not accompanied by law enforcement; notification of law enforcement is needed to preserve the peace; it is believed that law enforcement may have relevant information about the situation (for example a past involvement in disputes, a party having been previously been jailed, etc.).

Division staff are required to “cooperate with law enforcement during the investigation as requested. The degree of staff involvement in the gathering of evidence shall be at the discretion of the law enforcement agency.”

ASSUMPTION (continued)

House Amendment #4: adds to Section 660.302 a new subsection 3. and 4. These sections regard nursing facilities that are licensed pursuant to chapter 198, RSMo, and provide health care and related services which are paid to or reimbursed by the state of Missouri. No fiscal impact to the Division of Senior Services.

DOH officials also stated this legislation will have an indeterminate economic impact on small business facilities that may be required to implement corrective action plans concerning staffing issues, must relinquish beds for failure to achieve specified occupancy levels and are required to pay an annual surcharge for licensed but unavailable beds.

In addition, the legislation may have a minimal economic impact on residential care facility I/Is required to post statements of deficiencies in the facility, have an indeterminate economic impact on any long-term care facility or adult day care facility that may incur costs to purchase vaccine

and to administer immunizations, and would also have an indeterminate economic impact on facilities that may receive one of 50 grants to implement the new Missouri Career Ladder Initiative.

Officials from the **Office of State Public Defender (SPD)** stated for the purpose of the proposed legislation, the SPD has assumed that existing staff could provide representation for those cases arising where indigent persons were charged with failure to report elder abuse, or abusing or neglecting a resident of a facility or abusing or neglecting an eligible adult not residing in a facility, or failing to disclose criminal history on an application to work in an elder facility or making a false report of elder abuse or neglect or discloses the time of an unannounced inspection to any person not involved in inspection or has sexual contact with a resident. The SPD further assumes that existing staff could provide representation for indigent persons charged with having sexual contact with a resident or client of a facility. In FY 01, the SPD provided representation in 18 elder abuse cases. Passage of more than one similar bill would require the SPD system to request increased appropriations to cover cumulative costs of representing the indigent accused of the additional crimes proposed in the legislation.

Officials from the **Office of Attorney General** assume any costs associated with the proposed legislation would be absorbable within current resources.

Officials from the **Department of Social Services (DOS) - Division of Family Services (DFS)** stated that they anticipate 64 cases per year which would have been rejected would be accepted into Residential Care I Facilities (17 cases at \$156/month + \$25 Personal Needs Standard), Residential Care II Facilities (44 cases at \$292/month + \$25 Personal Needs Standard), and Skilled Nursing Care Facilities (3 cases at \$390/month + \$25 Personal Needs Standard).

ASSUMPTION (continued)

Officials from the **DOS - Division of Medical Services (DMS)** provided the following assumptions related to the proposed legislation:

Section 187.100.1. – Telephone Check-in Project Project:

This section will not have a fiscal impact on the DMS. The following assumptions were used to arrive at this decision. The legislation will not be interpreted to mandate telephony rather to test effectiveness of telephony. The pilot project is not intended to dictate changes to payment policy such as requiring payment for fraction of hours. The DMS assumes any adjustments to the payment policy would only be made as a result of appropriated funding.

Section 197.340.2. – Surcharge of \$1,000 for Unavailable Licensed Beds:

A health facility shall notify the Missouri Health Facilities Review Committee of the number of licensed beds that are available. The committee shall collect a \$1,000 surcharge for each licensed but unavailable bed for health facilities licensed pursuant to chapter 198, RSMo. The surcharge will be deposited in the general revenue fund.

The DMS does not expect a fiscal impact from this section. (The Department of Health and Senior Services – Certificate of Need Program estimates zero collections.) If any funds are collected and the surcharge is defined as a health care provider tax, the collection will be listed on the quarterly federal report - Summary Total Of Receipts From Form HCFA 64.11A; Form CMS 64.11. If the Centers for Medicare and Medicaid Services (CMS) determines the surcharge is an improper provider tax, the Medicaid grant could be reduced by the amount collected.

Section 197.370 – SNF Beds in a Continuing Care Retirement Community:

The proposed legislation will have a fiscal impact to the Division of Medical Services. The continuing care retirement community (CCRC) could build residential, intermediate or skilled nursing beds – Personal Care in an RCF and NF care are Medicaid covered services. It is assumed the resident would be more willing to move to these beds if the beds are located in their community. The fiscal impact is unknown but the impact would be greater than \$100,000. The number of CCRCs that meet the criteria is unknown.

ASSUMPTION (continued)

If one entity built 20 SNF beds to meet the CCRC definition and certified the beds to participate

in
Medicaid, the annual cost would be \$333,654.

20	beds
77%	occupancy (average of State)
5,621	total patient days in a year
62%	Medicaid share of total days
3,485	Medicaid days
\$95.74	Medicaid interim rate
\$333,654	Medicaid costs

Section 197.370 – SNF Beds in a Continuing Care Retirement Community:

The fiscal impact is expected to be greater than \$100,000. This assumes beds will not automatically be filled the first day, rather a phase-in occupancy is assumed. Given the cost of 20 beds, the DMS is confident the cost would be greater than \$100,000.

Section 198.046 Amendment 8 - Payment for Private Pay NF Resident:

The proposed legislation will have an impact on the DMS. The bill will allow non-Medicaid skilled facilities to receive Medicaid reimbursement for private-pay residents who have resided in the facility for a period in excess of one year prior to becoming Medicaid eligible. The facility may receive Medicaid reimbursement on behalf of such residents without meeting the need in section 197.327, RSMo.

The following assumptions were made. The skilled nursing facilities are entirely private pay and do not have any Medicaid certified beds. Anyone who has been in these facilities for at least one year could be eligible.

Currently there are 11 skilled nursing facilities that are not enrolled in the Medicaid program.

The total number of licensed beds for each facility was multiplied by the facility's occupancy rate for the third quarter of 2001 to arrive at the number of occupied beds. The total number of occupied beds was multiplied by the Medicaid occupancy rate to find the projected number of beds occupied by Medicaid recipients. (the Medicaid occupancy rate was reduced by 40% – 40% of residents do

not
stay longer than 12 months.) It is estimated it will take these facilities 24 months to achieve this
Medicaid occupancy level.

ASSUMPTION (continued)

The number of occupied beds for each month was multiplied by the number of days in the month to arrive at the Medicaid patient days/month. The Medicaid patient days/month was multiplied by the Medicaid interim rate of \$95.74 to arrive at the cost/month. The cost/month was added to find the total cost per year.

The cost for FY 03 - \$2,072,292 (10 months). The cost for FY 04 is \$7,485,145 and \$10,922,306 for FY 05. The federal match rate of 61.23% was used for all years. It is assumed the facilities will met Medicaid certification requirements and will be certified by the Department of Health and Senior Services.

Section 198.074 Amendment 3 - Immunizations in LTC Facilities:

DMS is assuming that the costs of the immunization requirements will be covered through the

Medicaid pharmacy program and not included the the nursing facility per diem rate. We are also assuming that some residents 65 years of age or older are already receiving the immunizations through

their physician. We have no way of determining the number of residents that would be affected by the

new legislation as some already receive these services. Medicare Part B covers both immunizations.

All calculations were figured assuming all residents 65 years of age or older without Medicare Part B coverage would be affected.

During SFY 01, there were 34,024 of Medicaid nursing home residents 65 years of age or older. 92.3% of Medicaid nursing home residents 65 years of age or older have Medicare Part B coverage, or 7.7% do not.

According to the Pharmacy Unit within DMS, the price of the immunization for influenza is a

flat rate of
 \$5.13 no matter what brand is given. The price of the immunization for pneumonia is an average of the
 wholesale price and is, therefore, effected by the brand given; however, \$21.00 is the average rate.

The projected cost for FY03 is \$68,457; FY04 is \$71,195; and FY05 is \$74,043. A federal match rate of 61.23% is used each year.

ASSUMPTION (continued)

Calculation:

Number of Medicaid residents 65 year of age or older - SFY 01	34,024
Percent without Medicare Part B coverage	<u>7.70%</u>
Number of Medicaid residents which Medicaid Pharmacy program would cover immunizations.	2,620
Influenza immunization cost	\$5.13
Pneumonia immunization cost	<u>\$21.00</u>
Total immunization cost per unit	<u>\$26.13</u>
Annual cost for FY 03	\$68,457
Annual cost for FY 04 (trended 4%)	\$71,195
Annual cost for FY 05 (trended 4%)	\$74,043

FY 04 and 05 were trended forward by 4% because the cost of the pneumonia immunization is based
 on the average wholesale cost and would increase accordingly (4% is the normal trend used by DMS
 for Medicaid costs).

Sections 198.082 – Nurse Aide Training:

The proposed legislation will not have a fiscal impact on the DMS. The reimbursement for the

training is not changed. Payment for the training is made after the nurse aide has successfully completed the training course and their name has been added to the Missouri Department of Health and Senior Services Nurse Assistant Register. The DMS may reimburse the nursing facilities earlier since the training must begin within 120 days of employment instead of 90 days. Also, the on-the-job training component must be completed within 120 days of employment.

Section 354.407 Amendment 1 – PACE:

The proposed legislation would allow religious or charitable organizations doing business for the operation of a PACE program approved by CMS to not have to obtain an HMO license. Today a PACE provider is required to have an HMO license. The HMO license requires the provider to have a bond. The current PACE provider agreement does not require the provider to obtain a bond. Therefore, in the future, to implement hold harmless 42 CFR 460.70, DMS will require a bond or some legal instrument to meet this requirement.

DMS assumes that by not requiring an HMO license there will be more providers. However, the cost

to serve more providers will be offset of the PACE program to the nursing home care costs. Due to the

ASSUMPTION (continued)

time it takes for a PACE sight to become established, DMS might not see the offset to the fiscal note for some years after the fiscal note.

DMS assumes that there will not be a fiscal impact.

Section 660.252 - Medicaid Participation Agreements:

The provision of the bill that requires all Medicaid participation agreements with in-home service providers to include a requirement that all in-home service employees receive training on identification

and prevention of elder abuse and neglect will not have a fiscal impact on the DMS. Currently there is

an administrative regulation (13 CSR 70-91.03) that requires providers to report instances of abuse and neglect. In order for the providers to do this, the providers must train their staff on elder abuse and

neglect. The provider agreements can be updated to include the necessary language without a material fiscal impact to the DMS.

This section also requires the participation agreements include facilities to comply with the provision

of sections 660.600 to 660.608 regarding access to facilities by ombudsmen or representatives of

the
office of the state ombudsman for long-term care facility residents. The agreements can be updated to
include this language without a material fiscal impact to the DMS.

Section 2 Amendment 1 - Division of Assets for RCF Residents:

The proposed legislation will have a fiscal impact on the DMS. More individuals will be Medicaid
eligible if the division of assets is applied to persons living in a RCF.

The Division of Family Services estimates there are 64 individuals who would become Medicaid eligible with the passage of this legislation. This includes 3 individuals who would live in a skilled
nursing facility. It should be noted, the proposed legislation does not include Intermediate Care

Facilities (ICF) and Skilled Nursing Facilities (SNF); however, they are part of the Supplemental Nursing Care program. Cost for residents living in a SNF are included in the fiscal impact. The costs
are shown separately.

The cost per eligible is \$656.40/month. The average is based on the last three months of actual expenditures - hospital, dental, physician services, personal care and rehabilitation & specialty services. (The RCF resident is not eligible for all home and community services - only personal care.)

RCF residents - 17 RCF I and 44 RCF II = 61 eligibles x \$656.40 = \$40,040.40 per month.

SNF residents - 3 x \$656.40 = \$1,969.20 per month.

A 4% inflation factor was applied to both FY 04 and FY 05.

ASSUMPTION (continued)

FY 03:

RCF residents - \$40,040.40 x 10 months = \$400,404

SNF residents - \$1,969.20 x 10 months = \$19,692

Total \$420,096

FY 04:

RCF residents - \$41,642.02 x 12 months = \$499,704

SNF residents - \$2,047.97 x 12 months = \$24,576

Total \$524,280

FY 05:

HW-C:LR:OD (12/01)

RCF residents - $\$43,307.70 \times 12 \text{ months} = \$519,692$
SNF residents - $\$2,129.89 \times 12 \text{ months} = \underline{\$25,559}$
Total $\$545,251$

Due to the division of assets for married couples proposed in the legislation, individuals are provided the opportunity to enter an RCF I/II facility over and ICF/SNF nursing facility. We estimate that between 10% and 35% will choose RCF over a nursing facility resulting in a cost avoidance.

$63 \times 10\% = 6.3$ individuals or 6

$63 \times 35\% = 22.05$ individuals or 22

Medicaid nursing facility costs approximately \$30,000 per individual per year.

FY 03:

10% cost avoidance

SNF/ICF residents to RCF residents - $(\$30,000 \times 6) \times 10 \text{ months} = \$150,000$

\$60,000 - GR (40%)

\$90,000 - FF (60%)

35% cost avoidance

SNF/ICF residents to RCF residents - $(\$30,000/\text{yr} \times 22) \times 10 \text{ months} = \$550,000$

\$220,000 - GR (40%)

\$330,000 - FF (60%)

ASSUMPTION (continued)

FY 04:

10% cost avoidance

SNF/ICF residents to RCF residents $(\$30,000/\text{yr} \times 6) = \$180,000 \times 4\% \text{ inflation} = \$187,200$

\$74,880 - GR (40%)

\$112,320 - FF (60%)

35% cost avoidance

SNF/ICF residents to RCF residents - $(\$30,000/\text{yr} \times 22) = \$660,000 \times 4\% \text{ inflation} = \$686,400$

\$274,560 - GR(40%)

HW-C:LR:OD (12/01)

\$411,840 - FF (60%)

FY 05:

10% cost avoidance

SNF/ICF residents to RCF residents (\$30,000/yr x 6) = \$180,000 x 4% inflation = \$187,200 x 4% inflation = \$194,688

\$77,875 - GR(40%)

\$116,813 - FF(60%)

35% cost avoidance

SNF/ICF residents to RCF residents - (\$30,000/yr x 22) = \$660,000 x 4% inflation = \$686,400 x 4% inflation = \$713,856

\$285,542 - GR(40%)

\$428,14 - FF(60%)

Sections 3 & 4 Amendment 4 - Use of State Funds Other Than Health Care Services:

The DMS will need staff to carry out the provisions of this section. **Two staff at an Auditor II** classification will be needed. If it is determined that state moneys were used in violation of this ASSUMPTION (continued)

legislation the state would receive double the amount of such expenditure. The amount of funds the state would receive is unknown.

Section 6 Amendment 10 - NF Rate Adjustment for Change of Ownership:

The DMS analyzed the change of ownerships (CHOWs) from 1998 - 2001. Based on the 1998 - 2000 data (2001 was excluded because the data was incomplete at the time of the analysis), the DMS

calculated the estimated impact, given the current level of CHOWs, by multiplying the maximum rate

adjustment the facility could receive by the facility's estimated Medicaid days for FY 03. A facility could only receive a rate adjustment if its current rate was less than the industry average rate and

its cost per patient day as determined from the cost report subsequent to the CHOW. The maximum

rate adjustment was calculated for each eligible facility by determining the difference between the

facility's current rate and the lesser of the industry average rate or the facility's cost per patient day.

The average percent of nursing facilities that qualified for a rate adjustment, the average percent of paid Medicaid days applicable to the increase, and the average rate increase allowed was calculated.

These figures were applied to the whole nursing facility population, assuming that nursing facilities would change ownership to receive increased reimbursement rates.

Note, federal regulations have limitations on payments relating to changes in ownership. 42 CFR Ch. IV (10-01-00 Edition), § 447.253, states the following: "(2) . . . the State's methods and standards must provide that the valuation of capital assets for purposes of determining payment rates for NFs and ICF/MRs is not to increase . . . solely as a result of a change in ownership, by more than the lesser of (i) One-half of the percentage increase . . . in the Dodge construction index applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year; or (ii) One-half of the percentage increase . . . in the Consumer Price Index for All Urban Consumers (CPI-U) . . . applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year."

Officials from the **Department of Mental Health (DMH)** stated the proposed legislation does not fiscally impact the DMH. However, Amendment #10 is the only Amendment which may have a fiscal impact on the DMH. It is unknown how to calculate the impact of allowing a rate adjustment to these providers which have a change in ownership. The changes would be based upon criteria which the DMH has no control over and it is unknown how many changes in ownership would occur each year which would meet this criteria.

Officials from the **Missouri Senate** did not respond to our request for a statement of fiscal impact.

The proposed legislation will result in an increase in Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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GENERAL REVENUE FUND

Income - Missouri Health Facilities Review

Application Fees	\$30,000	\$30,000	\$30,000
Re-licensure Fees/Surcharge Fees for Licensed but Unavailable Beds	<u>\$14,225 to</u> <u>\$2,823,000</u>	<u>\$14,225 to</u> <u>\$2,823,000</u>	<u>\$14,225 to</u> <u>\$2,823,000</u>

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
Total <u>Income</u> - Missouri Health Facilities Review	<u>\$44,225 to</u> <u>\$2,853,000</u>	<u>\$44,225 to</u> <u>\$2,853,000</u>	<u>\$44,225 to</u> <u>\$2,853,000</u>
<u>Savings - Department of Social Services</u>			
Division of Assets for RCF Residents	<u>\$60,000 to</u> <u>\$220,000</u>	<u>\$74,880 to</u> <u>\$274,560</u>	<u>\$77,870 to</u> <u>\$285,542</u>
Total <u>Savings</u> - Department of Social Services	<u>\$60,000 to</u> <u>\$220,000</u>	<u>\$74,880 to</u> <u>\$274,560</u>	<u>\$77,870 to</u> <u>\$285,542</u>
<u>Costs - Department of Corrections</u>			
Additional commitments and parole	<u>(Unknown less</u> <u>than \$100,000)</u>	<u>(Unknown less</u> <u>than \$100,000)</u>	<u>(Unknown less</u> <u>than \$100,000)</u>
Total <u>Costs</u> - Department of Corrections	<u>(Unknown less</u> <u>than \$100,000)</u>	<u>(Unknown less</u> <u>than \$100,000)</u>	<u>(Unknown less</u> <u>than \$100,000)</u>
<u>Costs - Department of Health and Senior Services</u>			
Personal Service Costs (6 FTE)	(\$183,209)	(\$225,346)	(\$230,980)
Fringe Benefits	(\$65,974)	(\$81,147)	(\$83,176)
Equipment and Expense	<u>(\$132,911)</u>	<u>(\$85,979)</u>	<u>(\$79,484)</u>
Total <u>Costs</u> - Department of Health and Senior Services	<u>(\$382,094)</u>	<u>(\$392,472)</u>	<u>(\$393,640)</u>

GENERAL REVENUE FUND
(continued)

<u>Costs - Department of Social Services</u>			
Personal Service Costs (1 FTE)	(\$32,698)	(\$40,218)	(\$41,224)
Fringe Benefits	(\$11,775)	(\$14,483)	(\$14,845)
Equipment and Expense	(\$9,112)	(\$906)	(\$932)
Increased Residential Care and Skilled Nursing Facility Cases	(\$354,571)	(\$422,503)	(\$430,634)

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
SNF Beds in Continuing Care Retirement Community	(Unknown exceeding \$38,770)	(Unknown exceeding \$38,770)	(Unknown exceeding \$38,770)
Payment for NF Private Pay Resident	(\$803,428)	(\$2,901,991)	(\$4,234,578)
Immunizations in LTC Facilities	(Unknown less than \$26,541)	(Unknown less than \$27,602)	(Unknown less than \$28,706)
Division of Assets for RCF Residents	(\$162,871)	(\$203,263)	(\$211,394)
NF Rate Adjustment for Change of Ownership	<u>(\$5,061,603)</u>	<u>(\$6,134,922)</u>	<u>(\$6,196,272)</u>
	<u>(Unknown exceeding</u>	<u>(Unknown exceeding</u>	<u>(Unknown exceeding</u>
Total <u>Costs</u> - Department of Social Services	<u>\$6,448,287)</u>	<u>\$9,729,454)</u>	<u>\$11,139,943)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown exceeding \$3,757,381)</u>	<u>(Unknown exceeding \$6,994,366)</u>	<u>(Unknown exceeding \$8,395,041)</u>

**INTERGOVERNMENTAL
TRANSFER FUND**

Costs - Department of Health and Senior
Services

Personal Service Costs (6 FTE)	(\$183,352)	(\$225,523)	(\$231,161)
Fringe Benefits	(\$66,025)	(\$81,211)	(\$83,241)
Equipment and Expense	(\$65,808)	(\$77,168)	(\$79,483)
Facility Administration Payments (50)	(\$500,000)	(\$500,000)	(\$500,000)
Trainee Payments*	(Unknown up to \$1,045,000)	(Unknown up to \$1,045,000)	(Unknown up to \$1,045,000)

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
Trainee Continuing Education Payments*	(Unknown up to \$2,200,000)	(Unknown up to \$2,200,000)	(Unknown up to \$2,200,000)
Training Materials	<u>(Unknown up to \$202,400)</u>	<u>(Unknown up to \$202,400)</u>	<u>(Unknown up to \$202,400)</u>
Total <u>Costs</u> - Department of Health and Senior Services	<u>(Unknown up to \$4,286,915)</u>	<u>(Unknown up to \$4,331,302)</u>	<u>(Unknown up to \$4,341,285)</u>

**ESTIMATED NET EFFECT ON
 INTERGOVERNMENTAL
 TRANSFER FUND***

**(Unknown up
to \$4,286,915)*** **(Unknown up
to \$4,331,302)*** **(Unknown up
to \$4,341,285)***

*** Subject to Appropriations**

FEDERAL FUNDS

Income - Department of Social Services

Medicaid Reimbursements	\$53,583	\$55,604	\$57,000
Medicaid Reimbursement - SNF Beds in Continuing Care Retirement Community	Unknown exceeding \$61,230	Unknown exceeding \$61,230	Unknown exceeding \$61,230
Medicaid Reimbursement - Payment for NF Private Pay Resident	\$1,268,864	\$4,583,154	\$6,687,728
Medicaid Reimbursement - Immunizations in LTC Facilities	Unknown less than \$41,916	Unknown less than \$43,593	Unknown less than \$45,337

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
Medicaid Reimbursements - Division of Assets for RCF Residents	\$257,225	\$321,017	\$333,857
Medicaid Reimbursements - NF Rate Adjustment for Change of Ownership	<u>\$7,993,860</u>	<u>\$9,688,969</u>	<u>\$9,785,859</u>
Total <u>Income</u> - Department of Social Services	<u>Unknown</u> <u>exceeding</u> <u>\$9,592,846</u>	<u>Unknown</u> <u>exceeding</u> <u>\$14,666,381</u>	<u>Unknown</u> <u>exceeding</u> <u>\$16,880,337</u>
<u>Cost Savings - Department of Social Services</u>			
Reduced Medicaid Costs for Division of Assets for RCF Residents	<u>\$90,000 to</u> <u>\$330,000</u>	<u>\$112,320 to</u> <u>\$411,840</u>	<u>\$116,813 to</u> <u>\$428,314</u>
Total <u>Cost Savings</u> - Department of Social Services	<u>\$90,000 to</u> <u>\$330,000</u>	<u>\$112,320 to</u> <u>\$411,840</u>	<u>\$116,813 to</u> <u>\$428,314</u>

FEDERAL FUNDS (continued)

<u>Costs - Department of Social Services</u>			
Personal Service Costs (1 FTE)	(\$32,697)	(\$40,218)	(\$41,223)
Fringe Benefits	(\$11,774)	(\$14,482)	(\$14,844)
Equipment and Expense	(\$9,112)	(\$904)	(\$933)
Medicaid Reimbursements - SNF Beds in Continuing Care Retirement Community	(Unknown exceeding \$61,230)	(Unknown exceeding \$61,230)	(Unknown exceeding \$61,230)
Medicaid Reimbursements - Payment for NF Private Pay Resident	(\$1,268,864)	(\$4,583,154)	(\$6,687,728)
Medicaid Reimbursement - Immunizations in LTC Facilities	(Unknown less than \$41,916)	(Unknown less than \$43,593)	(Unknown less than \$45,337)

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
Medicaid Reimbursements - Division of Assets for RCF Residents	(\$257,225)	(\$321,017)	(\$333,857)
Medicaid Reimbursements - NF Rate Adjustment for Change of Ownership	<u>(\$7,993,860)</u>	<u>(\$9,688,969)</u>	<u>(\$9,785,859)</u>
	<u>(Unknown exceeding</u>	<u>(Unknown exceeding</u>	<u>(Unknown exceeding</u>
Total <u>Costs</u> - Department of Social Services	<u>\$9,592,846)</u>	<u>\$14,666,381)</u>	<u>\$16,880,337)</u>
 <u>Costs - Department of Labor and Industrial Relations</u>			
 <u>Unemployment Compensation Administrative Fund</u>			
Lost Federal Match on Start-up Costs	(\$10,828)	\$0	\$0
<u>Unemployment Compensation Trust Fund</u>			
Uncompensated Unemployment Benefits paid to disqualified employees	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
	<u>(Unknown exceeding</u>		
Total <u>Costs</u> - Department of Labor and Industrial Relations	<u>\$10,828)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
 FEDERAL FUNDS (continued)			
 <u>Loss - Department of Social Services</u>			
Loss in Federal Match for Reduced Costs - Division of Assets for RCF Residents	<u>(\$90,000 to \$330,000)</u>	<u>(\$112,320 to \$411,840)</u>	<u>(\$116,813 to \$428,314)</u>
Total <u>Loss</u> - Department of Social Services	<u>(\$90,000 to \$330,000)</u>	<u>(\$112,320 to \$411,840)</u>	<u>(\$116,813 to \$428,314)</u>
 ESTIMATED NET EFFECT ON FEDERAL FUNDS	 <u><u>(Unknown exceeding \$10,828)</u></u>	 <u><u>(Unknown)</u></u>	 <u><u>(Unknown)</u></u>

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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LOCAL GOVERNMENT FUNDS

Costs - Prosecuting Attorneys

Upgrades to Computer Systems, Forms and Instruction Changes	Exceeds <u>(\$100,000)</u>	\$0	\$0
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**ESTIMATED EFFECT ON LOCAL
GOVERNMENT FUNDS**

Exceeds <u>(\$100,000)</u>	<u>\$0</u>	<u>\$0</u>
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**LOCAL GOVERNMENT NURSING
FACILITIES**

<u>Costs - Additional Staffing</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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**ESTIMATED NET EFFECT ON
LOCAL GOVERNMENT NURSING
FACILITIES**

<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FISCAL IMPACT - Small Business

The proposed legislation could have an indeterminate negative economic impact on small businesses.

The legislation will also have an indeterminate economic impact on facilities that may receive one of 50 grants to implement the new Missouri Career Later Initiative.

DESCRIPTION

This substitute, with amendments, modifies the law relating to protection of the elderly. In its major provisions, the substitute:

- (1) Creates a new chapter on protection of the elderly and transfers several existing statutory sections to this chapter;
- (2) Expands the list of persons required to report suspected elder abuse to the Department of Health and Senior Services and mandates that suspected abuse be reported within 24 hours;
- (3) Requires reports of suspected elder abuse to be referred to the appropriate

law enforcement agency. Current law requires only substantiated reports to be referred. The department is also required to investigate immediately any report of elder abuse or neglect that involves a threat of imminent harm; (4) Requires the department and law enforcement agencies to cross-train personnel in investigating cases of suspected elder abuse; (5) Requires the department to establish a telephone check-in pilot project for in-home services employees by July 1, 2003; (6) Requires the Department of Health and Senior Services and the Department of Mental Health to cooperate in abuse and neglect investigations; (7) Allows the Attorney General to handle Medicare fraud investigations. The substitute also allows the Attorney General to obtain investigative subpoenas and search warrants in connection with investigations of abuse cases; (8) Creates civil penalties for home health agencies; (9) The Department of Health and Senior Services shall hire and administratively supervise any clerical and administrative support staff to the Missouri Health Facilities Review Committee; (10) Any health facility providing a health service shall notify the committee annually of the number of licensed beds that are unavailable. Beginning January 1, 2003, the committee shall collect for deposit into General Revenue, one thousand dollars for each licensed but unavailable bed; (11) Any licenses facility which has been licensed for more than three years and has failed to achieve an occupancy level for the last six quarters of fifty-five percent or higher will relinquish to the certificate of need program the excess beds over sixty-five percent of licensed beds. The facility may regain the beds after obtaining a ninety percent occupancy rate for six consecutive quarters; (12) The substitute also allows the department to deny licensure or renewal based on a review of the facility's compliance history and the owner or operator's compliance history; (13) Authorizes the department, when confronted with violations or deficiencies related to staffing, to implement corrective actions such as staffing ratios, training plans, or plans related to staff supervision; (14) Requires notice of noncompliance of a licensed facility to be given to the Attorney General; (15) Requires facilities to meet or exceed federal requirements concerning the posting of deficiencies; (16) Allows for revocation of a facility's license when the operator has been DESCRIPTION
(continued)

cited for failure to comply with a class I standard two times in 24 months or for failure to comply with a class II or III standard two times in 12 months; (17) An individual may be accepted for residency in a residential care facility I or II or remain in residence if the facility provides appropriate services, has appropriate staff, has a written plan, approved by the local fire department, for the protection of all residents in the event of disasters, has a written verification signed by the resident stating how the facility will meet the needs of the resident, and is staffed twenty-four hours a day by the appropriate number and type of personnel for the proper care of residents; (18) Individuals with dementia who require assistance in order to evacuate in the event of a disaster count as three residents; (19) The departments of health and senior services, social services, mental health, and elementary and secondary education shall work together to compare and evaluate their assessment procedures for individuals receiving long-term care services; (20) Requires nursing assistants employed by a skilled nursing facility or intermediate care facility to complete training within 120 days of being hired; (21) Adds freedom from neglect to the list of rights of long-term care facility residents and extends the time for filing a complaint for

violations of a resident's right from 180 days to two years from the date of the alleged deprivation or injury; (22) All facilities licensed that receive Medicaid funding shall submit an annual financial statement by October fifteenth of each year on a form developed by the Department of Health and Senior Services; (23) Allows the department to reduce the frequency of inspections of licensed facilities from twice a year to once a year based on the facility's compliance record; (24) Makes it a class A misdemeanor for a department employee to knowingly disclose the time of an unannounced inspection of a facility licensed by the department and requires the department to terminate his or her employment; (25) The Department of Health and Senior Services aging-in-place pilot program success and effectiveness shall be used to establish appropriate licensure categories. The department may, for the purpose of implementing and evaluating the effectiveness of the pilot program, grant exceptions during the program period if the department has determined that the exception would not potentially jeopardize the health, safety or welfare of any resident of the aging-in-lace pilot program; (26) Creates a hearsay exception for elderly and disabled persons in certain cases; (27) Makes it a class B misdemeanor for an owner or employee of a skilled nursing facility or an Alzheimer's special unit to have sexual contact with a resident of the facility or with a client in his or her care. Second or subsequent violations are class A misdemeanors. In addition, sexual intercourse or deviant sexual intercourse in these cases is a class D felony. Second or subsequent violations are class C felonies. An employee who is married to a resident or client and engages in this activity with his or her spouse is exempt from prosecution. Consent of the victim is no defense to prosecution; (28) Prohibits persons from claiming any legal privilege as a defense for failing to report suspected elder abuse, except that the attorney-client privilege may still be claimed; (29) Requires the department to provide certain information and certain links regarding long-term care facilities and facility surveys on its web site; (30) Requires the department to create and make available through the department's Internet web site information that provides a listing of all public and private organizations in the state that provide services

DESCRIPTION (continued)

to the elderly; (31) Mandates the inclusion of certain access and training requirements in all Medicaid participation agreements with in-home services providers and long-term care facilities; (32) Allows investigation reports to be made available without a court order to certain persons; (33) Clarifies when the department can seek an injunction in connection with an investigation; (34) Requires all payments by long-term care facilities to vendors of essential services to be made within 120 days; (35) Certain health maintenance organizations acting as programs for all-inclusive care for the elderly (PACE) projects would be allowed to be exempt from the certificate of authority requirement. This exemption would apply only business conducted under terms of the approved PACE contract; (36) If a private-pay skilled nursing facility has a private-pay resident who has resided in the facility for more than one year prior to becoming Medicaid eligible, the facility may receive Medicaid reimbursement on behalf of the resident without meeting the need in section 197.327; (37) Unsubstantiated inspection reports and written reports of investigations of complaints are not to be used by insurance companies for purposes of

insurance underwriting; (38) Continuing care retirement communities which contain in their certificate of need application plans which when completed will consist of a minimum of fifty independent living units and a minimum of thirty residential care facility beds and thirty skilled nursing facility beds and all facilities are located on contiguous property, will be exempt from certain requirements for the establishment or addition of long-term care beds; (39) A Joint Committee on Nursing Home Medicaid Reimbursement will be established to review the rate-setting process to make recommendations regarding the equity of Medicaid reimbursement of nursing homes. The Committee will consist of five members of the House and five members of the Senate; (40) The Department of Health and Senior Services will establish the Missouri Career ladder Initiative. The program is to provide education, training, and mentoring opportunities for direct caregivers. The program is to be available to 50 facilities based upon competitive grants provided by the state and will consist of three levels of participation. Each level will be an eight week training course of a minimum of four hours of training per week. After each successful completion of a level by a caregiver, the facility is to provide documentation to the department. Subject to appropriations, the department shall, on a quarterly basis, provide facilities with amounts to be given to the caregivers who complete each level of the program. The department is to provide facilities with the materials and technical assistance needed to provide the education, training, and mentoring for the program. Each facility participating in the program will, subject to appropriations, receive \$10,000 to administer the program. Subject to appropriations, a caregiver that completes the program may continue to earn up to an additional one thousand dollars a year if the caregiver participates in a continuing education program developed and approved by the department. The department will establish a mentoring program and may promulgate rules to implement the provisions of the bill; (41) Subject to appropriations, the department will develop a plan to promote the nursing profession for long-term care facilities. The plan will include promoting the nursing profession through grants and low-interest loans to schools of nursing, establish a scholarship and loan repayment program, and establish an internship program for training in long-term specialty DESCRIPTION (continued)

care areas. The department may promulgate rules; (42) Certain care facilities to provide immunizations for influenza and pneumonia to their residents 65 years of age or older. A new Section 198.074 is created to require long term care facilities, adult day care facilities, and assisted living facilities to provide such immunizations annually or upon admission. The Department must develop rules for documenting compliance, including the documentation of residents who refuse the immunization. The Department may not impose a violation on a facility for not making an immunization available if a shortage exists; (43) Requires the Division of Medical Services to promulgate rules that include specific provisions relating to an adjustment in the Medicaid reimbursement rate for certain long-term care facilities that change ownership; (44) Any skilled nursing facility licensed by the State that provides health care and related services which are paid to or reimbursed by the state of Missouri to such a facility in a total amount exceeding \$100,000 in a calendar year shall not use any of such moneys for any purpose not directly related to the provision of health care services. The facilities that make expenditures not directly related to the provision of health care services shall maintain sufficient records to show

that no state moneys are used for such expenditures and shall provide, upon request, such records to the division of medical services within the department of social services. Any facility subject to these regulations shall annually submit certification to the division of medical services that no state moneys will be expended for any purpose not directly related to the provision of health care services. Any facility that does not submit the annual certification will be subject to a fine. Any facility that fails to maintain or provide the division the records required by this section shall be subject to a fine. Any facility that expends state moneys in violation of this section is liable to the state for double the amount of any state moneys expended in violation of this section. Any person who knowingly authorizes the use of state moneys for purposes prohibited by this section shall be liable to the state for double the amount of such expenditures; and (45) A facility subject to the provisions of this legislation shall not discharge, demote, threaten, or otherwise discriminate against any individual or employee because such individual or employee provided or attempted to provide information to the division of medical services regarding possible violations of the legislation.

This legislation is not federally mandated and would not duplicate any other program.

SOURCES OF INFORMATION

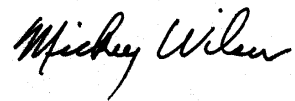
Department of Insurance
Missouri House of Representatives
Department of Elementary and Secondary Education
Department of Public Safety - Missouri Highway Patrol
Office of State Courts Administrator
Missouri Health Facilities Review Committee
Office of Administration - Division of Budget and Planning
Office of Secretary of State
Coordinating Board for Higher Education
Department of Labor and Industrial Relations
Office of Prosecution Services
Department of Health and Senior Services
Office of State Public Defender
Department of Corrections
Office of Attorney General

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Department of Social Services
Department of Mental Health

NOT RESPONDING: Missouri Senate

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Acting Director
April 15, 2002